

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
CHICAGO DIVISION

In re:

Marilyn L. Gordon AKA Marilyn
Gordon-McCalla : Case No.: 19-02176
: Chapter 13
: Judge Deborah L. Thorne

Debtor.

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NOTICE OF MOTION

Notified via Electronic Filing

U.S. Trustee, Patrick S. Layng
Office of the United States Trustee, Region 11
219 S. Dearborn Street, Room 873
Chicago, IL 60604

Marilyn O. Marshall
224 South Michigan Ste 800
Chicago, IL 60604
courtdocs@chi13.com

David M Siegel
Attorney for Marilyn L. Gordon AKA Marilyn Gordon-McCalla
David M. Siegel & Associates
790 Chaddick Drive
Wheeling, IL 60090
davidsiegelbk@gmail.com

Notified via US Postal Service

Marilyn L. Gordon AKA Marilyn Gordon-McCalla
7341 S. Albany
Chicago, IL 60629

Marilyn L. Gordon AKA Marilyn Gordon-McCalla
Kingsley Mccalla
7341 S Albany Ave
Chicago, IL 60629

SBA
U.S. Small Business Administration 409 3rd St., SW
Washington, DC 20416

Please take notice that on August 7, 2019, at 9:30 a.m., or as soon thereafter as I may be heard, I shall appear before the Honorable Judge Deborah L. Thorne, 219 South Dearborn, Courtroom 613, Chicago, IL, 60604 or before any other Bankruptcy Judge who may be presiding in his/her place and stead and shall then and there present the accompanying motion. At that time and place you may attend if you so choose.

AFFIDAVIT OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached motion upon the parties listed above, by causing same to be mailed in a properly addressed envelope, postage prepaid, on 25th day of July, 2019, unless a copy was provided electronically by the Clerk of the Court.

Date July 25, 2019

/s/ Todd J. Ruchman

Signature

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Notice of Motion was served on the parties listed below via e-mail notification:

U.S. Trustee, Patrick S. Layng, Office of the United States Trustee, Region 11, 219 S. Dearborn Street, Room 873, Chicago, IL 60604

Marilyn O. Marshall, 224 South Michigan Ste 800, Chicago, IL 60604,
courtdocs@chi13.com

David M Siegel, Attorney for Marilyn L. Gordon AKA Marilyn Gordon-McCalla, David M. Siegel & Associates, 790 Chaddick Drive, Wheeling, IL 60090, davidsiegelbk@gmail.com

The below listed parties were served via regular U.S. Mail, postage prepaid, on July 25, 2019:

Marilyn L. Gordon AKA Marilyn Gordon-McCalla, 7341 S. Albany, Chicago, IL 60629

Marilyn L. Gordon AKA Marilyn Gordon-McCalla and Kingsley Mccalla, 7341 S Albany Ave, Chicago, IL 60629

SBA, U.S. Small Business Administration 409 3rd St., SW, Washington, DC 20416

/s/ Todd J. Ruchman

UNITED STATES BANKRUPTCY COURT
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Marilyn L. Gordon AKA Marilyn : Case No.: 19-02176
Gordon-McCalla : Chapter 13
Debtor. : Judge Deborah L. Thorne
: *****
: :
: :

MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY
(FIRST MORTGAGE)

U.S. Bank National Association, as trustee, in trust for registered holders of First Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-FF18 ("Creditor"), hereby moves the Court, pursuant to 11 U.S.C. § 362(d) to lift the automatic stay as to real property commonly referred to as 7341 S Albany Ave, Chicago, IL 60629 ("Property") and hereby moves the Court, pursuant to 11 U.S.C. § 1301(c) for relief from the co-debtor stay as to Kingsley McCalla. In support of the Motion, the Movant states the following:

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion are proper under 28 U.S.C. § 1408 and 1409.
2. Marilyn L. Gordon AKA Marilyn Gordon-McCalla ("Debtor") filed a Chapter 13 case on January 25, 2019, ("Petition Date").
3. As of the Petition Date, the Movant was the holder of a claim secured by the Property, more particularly described in the mortgage ("Mortgage"), a copy of which is attached as Exhibit "A".

4. The above described Mortgage was given to secure an Adjustable Rate Note, ("Note"), dated October 12, 2006 and made payable to the Movant in the original sum of \$157,500.00. A copy of the Note is attached hereto as Exhibit "B".
5. The Movant perfected an interest in the Property, more particularly described in the Mortgage, recorded in the Cook County Recorder's Office on October 25, 2006. Evidence of perfection is attached as Exhibit "A".
6. The loan was modified as set forth in the Loan Modification Agreement attached hereto as Exhibit "C".
7. The subject Note and Mortgage are co-signed by Kingsley McCalla and that to the extent that the Co-Debtor stay of 11 U.S.C. § 1301 applies to real estate loans, it applies to Kingsley McCalla and grounds exist for relief there from under 11 U.S.C. § 1301(c)(1) as the Co-Debtor received an ownership interest in the Property and under 11 U.S.C. § 1301(c)(3) if the automatic stay is modified therein.
8. Select Portfolio Servicing, Inc. services the loan on the property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of U.S. Bank National Association, as trustee, in trust for registered holders of First Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-FF18 "Noteholder." Noteholder, directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Noteholder or has been duly endorsed. Noteholder is the original mortgagee or beneficiary or the assignee of the security instrument for the referenced loan.

9. As of July 12, 2019, the outstanding principal of the Note was \$107,548.05 and the outstanding interest was \$1,989.56.
10. The Debtor is in default post-petition. A payment history is attached as Exhibit "D".
11. Said failure to make post petition mortgage payments constitutes sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(1);
12. The Property is of inconsequential value and benefit to the estate. Cause exists to lift the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reasons:
 - a. Debtor and Co-Debtor have no equity in the Property and the Property is not needed by the Debtor for its reorganization. Movant believes that the Property has a value of \$123,130.00 based on the Assessor's Value, which is attached hereto as Exhibit "E".
As of July 12, 2019, the estimated principal balance is \$107,548.05 with additional interest estimated at \$1,989.56, deferred principal balance estimated at \$49,306.43, escrow advances estimated at \$917.54, and fees estimated at \$187.74 less unapplied funds of (\$419.14) totaling a secured claim of approximately \$159,530.18. After the costs of sale and payment of all liens on the Property, there will be effectively no equity in this Property. Based upon the lack of equity in the Property, Movant asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
 - b. The Movant is not being adequately protected. Per the Note and Mortgage, payments are applied to the last month due. Based on the foregoing, Debtor and Co-Debtor have failed to make periodic payments to Creditor since May 2019 which unpaid payments are in the aggregate amount of \$1,860.99 through July 2019. As of July 12,

2019, Debtor was to have made 6 post petition payments. Debtor has only made 3 post petition payments. Debtor is delinquent 3 post petition payments.

13. The Movant requests that the Court order that Rule 4001(a)(3) is not applicable.

WHEREFORE, the Creditor prays for the entry of the attached Order Granting Relief from the Automatic Stay and Co-Debtor Stay and the Trustee is hereby directed to halt disbursements to Creditor upon the filing of the Order Granting Relief from the Automatic Stay.

Respectfully submitted,

/s/ Todd J. Ruchman

Todd J. Ruchman (6271827)
Keith Levy (6279243)
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614-220-5611; Fax: 614-627-8181
Attorneys for Creditor
The case attorney for this file is Todd J. Ruchman.
Contact email is
tjruchman@manleydeas.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from the Automatic Stay and Co-Debtor Stay (First Mortgage) was served on the parties listed below via e-mail notification:

U.S. Trustee, Patrick S. Layng, Office of the United States Trustee, Region 11, 219 S. Dearborn Street, Room 873, Chicago, IL 60604

Marilyn O Marshall, 224 South Michigan Ste 800, Chicago, IL 60604, courtdocs@chi13.com

David M Siegel, Attorney for Marilyn L. Gordon AKA Marilyn Gordon-McCalla, David M. Siegel & Associates, 790 Chaddick Drive, Wheeling, IL 60090, davidsiegelbk@gmail.com

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/s/ Todd J. Ruchman
